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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010- 659**
ACCUSATION

13 **JEREMY WEHR**
3644 Indiana Street, Apt. 1
San Diego, CA 92103

14 **Registered Nurse License No. 651351**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about January 25, 2005, the Board of Registered Nursing issued Registered
23 Nurse License Number 651351 to Jeremy Wehr (Respondent). The Registered Nurse License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 June 30, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

....

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

....

7. Section 2762 of the Code states in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

....
(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

8. Section 2770.11 of the Code states:

(a) Each registered nurse who requests participation in a diversion program shall agree to cooperate with the rehabilitation program designed by the committee and approved by the program manager. Any failure to comply with the provisions of a rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.

(b) If the program manager determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the program manager shall report the name and license number, along with a copy of all diversion records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding.

9. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

10. Health and Safety Code (H&S Code) section 11173, subdivision (a), states in pertinent part:

(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

COST RECOVERY

11. Section 125.3 of the Code provides, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

12. Ambien, a brand name for zolpidem tartrate, is a Schedule IV controlled substance as designated by H&S Code section 11057, subdivision (d)(32), and is a dangerous drug pursuant to Code section 4022.

13. Fentanyl Citrate is a Schedule II controlled substance as designated by H&S Code Section 11055, subdivision (c)(8), and is a dangerous drug pursuant to Code section 4022.

14. Hydrocodone is a Schedule II controlled substance as designated by H&S Code section 11055, subdivision (b)(1)(J), and is a dangerous drug pursuant to Code section 4022. Hydrocodone is a narcotic pain reliever.

15. Lorazepam, sold under the brand name Ativan, is a Schedule IV controlled substance as designated by H&S Code section 11057, subdivision (d)(16), and is a dangerous drug pursuant to Code section 4022. Lorazepam is used in the treatment of anxiety disorders and for short-term (up to 4 months) relief of the symptoms of anxiety.

16. Morphine/Morphine Sulfate is a Schedule II controlled substance as designated by H&S Code section 11055, subdivision (b)(1)(M), and is a dangerous drug pursuant to Code section 4022.

17. Oxycodone, also sold under the brand name OxyContin, is a Schedule II controlled substance as designated by H&S Code section 11055, subdivision (b)(1)(N), and is a dangerous drug pursuant to Code section 4022.

18. Tylenol #3 is a Schedule III controlled substance as designated by H&S Code section 11055, subdivision (b), and is a dangerous drug pursuant to Code section 4022.

19. Vicodin is a Schedule III controlled substance pursuant to H&S Code section 11055, subdivision (b)(1)(J) and a dangerous drug pursuant to Code section 4022. Vicodin is a trade

1 name for the narcotic substance hydrocodone or dihydrocodeione with the non-narcotic substance
2 acetaminophen.

3 20. Pyxis and Pandora Data Systems are trade names for the automated single-unit-dose
4 medication dispensing systems, which record information such as patient name, physician orders,
5 date and time medication was withdrawn, and the name of the licensed individual who withdrew
6 and administered the medication.

7 FACTUAL ALLEGATIONS

8 21. Respondent was employed as a registered nurse at UCSD Medical Center, Thornton
9 Hospital, in San Diego, California, from October 9, 2007 to November 3, 2008, the date that
10 Respondent resigned.

11 22. A Pyxis Report dated August 10, 2008, for user name "Jeremy Wehr" revealed that
12 Respondent withdrew 100 mcg Inj of Fentanyl for a patient at 20:45 hours. The order was for
13 25 mcg Fentanyl. No waste was documented.

14 23. A Pyxis Report dated August 11, 2008, for user name "Jeremy Wehr" revealed that
15 Respondent withdrew 100 mcg Inj of Fentanyl for a patient at 00:58 hours. The order was for
16 25 mcg Fentanyl. The waste of 75 mcg of Fentanyl was documented at 00:52 hours, which is 6
17 minutes before it was withdrawn.

18 Patient A

19 24. On October 10, 2008, Respondent was assigned to care for patient A. Respondent
20 withdrew a 5.000 mg tablet of Oxycodone at 20:02 hours for the patient and failed to document
21 administering the dose on the patient's medication administration record (MAR).

22 Patient B

23 25. On September 23, 2008, at 00:10 hours, Respondent withdrew one tablet of
24 Tylenol #3 with Codeine for patient B and failed to chart administering the dose in the patient's
25 MAR.

26 Patient C

27 26. On August 29, 2008, at 00:51 hours, Respondent withdrew Hydromorphone HCL
28 1 mg/1 ml syringe for patient C and failed to chart administering the dose in the patient's MAR.

1 27. On August 29, 2008, Respondent withdrew Hydromorphone HCL 1 mg/1 ml syringe
2 at 03:19 hours, however he charted administering the dose in the patient's MAR at 03:14 hours, 4
3 minutes before it was withdrawn.

4 28. On August 29, 2008, Respondent withdrew Hydromorphone HCL 1 mg/1 ml syringe
5 at 06:33 hours, however he charted administering the dose in the patient's MAR at 06:25 hours, 8
6 minutes before it was withdrawn.

7 29. On August 29, 2008, Respondent withdrew Hydromorphone HCL 1 mg/1 ml syringe
8 at 20:06 hours, however he charted administering the dose in the patient's MAR at 20:05 hours, 1
9 minute before it was withdrawn.

10 30. On August 29, 2008, Respondent withdrew Hydromorphone HCL 1 mg/1 ml syringe
11 at 23:03 hours, however he charted administering the dose in the patient's MAR at 22:55 hours, 8
12 minutes before it was withdrawn.

13 31. On August 29, 2008, Respondent withdrew Hydromorphone HCL 1 mg/1 ml syringe
14 at 03:19 hours, however he charted administering the dose in the patient's MAR at 03:14 hours, 5
15 minutes before it was withdrawn.

16 32. On August 30, 2008, Respondent withdrew Hydromorphone HCL 1 mg/1 ml syringe
17 at 04:25 hours, however he charted administering the dose in the patient's MAR at 04:18 hours, 7
18 minutes before it was withdrawn.

19 33. On August 29, 2008, Respondent withdrew Hydromorphone HCL 1 mg/1 ml syringe
20 at 03:19 hours, however he charted administering the dose in the patient's MAR at 03:14 hours, 5
21 minutes before it was withdrawn.

22 34. On August 29, 2008, Respondent withdrew Hydromorphone HCL 1 mg/1 ml syringe
23 at 07:09 hours, however he charted administering the dose in the patient's MAR at 06:59 hours,
24 10 minutes before it was withdrawn.

25 35. On August 29, 2008, Respondent withdrew Hydromorphone HCL 1 mg/1 ml syringe
26 at 23:03 hours, however he charted administering the dose in the patient's MAR at 22:55 hours, 8
27 minutes before it was withdrawn.

1 36. On July 29, 2008, a Nurse Manager counseled Respondent regarding poor clinical
2 documentation. On August 8, 2008, the same Nurse Manager gave Respondent a verbal warning
3 regarding attendance problems and poor clinical documentation. On October 31, 2008,
4 Respondent was given a written notice and placed on administrative leave effective November 1,
5 2008. He was given two weeks to either resign or accept a corrective action plan. Respondent
6 resigned from his employment from UCSD Medical Center on November 3, 2008.

7 37. On November 10, 2008, Respondent left a voice mail message to the Nurse Manager
8 at UCSD Thornton Hospital indicating that he needed to enroll in an alcohol and drug
9 rehabilitation program.

10 38. On November 11, 2008, Respondent left a second voice mail message stating that he
11 was "trying to find a rehab program."

12 39. On or about November 19, 2008, Respondent left four threatening voice mail
13 messages for a Nurse Manager at UCSD Medical Center. In the first message Respondent left at
14 1238 hours, he stated he had been using heroin for pain management and was going to try and
15 obtain more. He also said he was considering resigning from UCSD Thornton Hospital. The
16 second message stated he would come to Thornton Hospital the following day (November 20,
17 2008) at 1300 hours and that there should be a lot of security because he was going to show how
18 a small person could really "kick ass." In the third message, Respondent said that he had
19 removed a picture of the Nurse Manager's son from the bulletin board. Respondent also spoke
20 about masturbating and ejaculating into the Nurse Manager's goatee and that the Nurse Manager
21 should reconsider terminating his employment. In the fourth message Respondent left at 1307
22 hours, he told the Nurse Manager that "he should reconsider" and started to play music,
23 "Rage Against the Machine."

24 40. On November 25, 2008, Respondent voluntarily enrolled in the Board's Registered
25 Nursing Diversion Program (Diversion Program).

26 41. On November 28, 2008, a UCSD officer responded to another call from hospital staff
27 regarding several obscene text messages Respondent sent to a UCSD staff member who had
28 previously worked with Respondent. It was reported to police that after Respondent was fired

1 from UCSD Thornton Hospital, he continued to send text messages to a UCSD staff member
2 regarding his hatred for co-workers and their children, and also sent a text message regarding
3 purchasing a gun for his protection.

4 42. On December 10, 2008, Respondent called to withdraw from the Diversion Program,
5 stating that he could not give up his opiates. Respondent was terminated from the Diversion
6 Program and because of Respondent's use of drugs and inability to comply with the Diversion
7 Program he was deemed a public safety risk.

8 **FIRST CAUSE FOR DISCIPLINE**

9 (False Entries in Hospital/Patient Records)

10 43. Respondent is subject to disciplinary action under Code section 2762, subdivision (e)
11 in that while on duty as a registered nurse at UCSD Medical Center Thornton Hospital, in
12 San Diego, California, Respondent falsified, or made grossly incorrect, grossly inconsistent or
13 unintelligible entries in hospital, patient, or other records pertaining to controlled substances as is
14 more fully set forth in paragraphs 22 through 36, above.

15 **SECOND CAUSE FOR DISCIPLINE**

16 (Obtain Controlled Substances by Fraud, Deceit or Subterfuge)

17 44. Respondent is subject to disciplinary action under Code section 2762, subdivision (a),
18 for violation of Health and Safety Code section 11173, subdivision (a) in that he obtained
19 controlled substances by fraud, deceit or subterfuge. Respondent took patients' drugs and
20 falsified, or made grossly incorrect, grossly inconsistent or unintelligible entries in hospital,
21 patient, or other records to conceal his taking the drugs as is more fully set forth in paragraphs 22
22 through 36, above.

23 **THIRD CAUSE FOR DISCIPLINE**

24 (Administering a Controlled Substance to Self)

25 45. Respondent is subject to disciplinary action under Code section 2762, subdivision (a)
26 in that he administered a controlled substance to himself in violation of the law, in that he
27 admitted his habitual use of heroin as is set forth in paragraph 39, above.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct – Use of Controlled Substances Endangering the Public)

3 46. Respondent is subject to disciplinary action under Code section 2762, subdivision (b)
4 in that Respondent used a controlled substance in a manner dangerous to the public and himself,
5 as is set forth in paragraphs 37 through 39, above

6 **FIFTH CAUSE FOR DISCIPLINE**

7 (Unprofessional Conduct – Threats)

8 47. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)
9 in that Respondent left threatening voice mail messages and text messages to hospital staff, as is
10 set forth in paragraphs 37 through 41, above, which constitutes unprofessional conduct.

11 **SIXTH CAUSE FOR DISCIPLINE**

12 (Failure to Comply with Diversion Program)

13 48. Respondent is subject to disciplinary action under Code section 2761, subdivision (d)
14 in that Respondent violated 2770.11, subdivision (a) by failing to comply with the Board's
15 Diversion Program as is set forth in paragraph 42, above.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Board of Registered Nursing issue a decision:

19 1. Revoking or suspending Registered Nurse License Number 651351, issued to
20 Jeremy Wehr;

21 2. Ordering Jeremy Wehr to pay the Board of Registered Nursing the reasonable costs
22 of the investigation and enforcement of this case, pursuant to Business and Professions Code
23 section 125.3;

24 3. Taking such other and further action as deemed necessary and proper.

25 DATED: 6/22/10

26 *Louise R. Bailey*
27 LOUISE R. BAILEY, M.ED., RN
28 Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant